

HOUSE BILL No. 2038

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-41-6-1.

Synopsis: HIV test consent. Provides an exception to the consent law to allow an HIV test to be ordered for a health care provider or an employee of a health care facility who is involved in direct skin or mucous membrane contact with blood or bodily fluids of an individual that, as determined by a physician, is of a nature that may transmit HIV.

Effective: July 1, 1999.

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January 27, 1999, read first time and referred to Committee on Public Health.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 2038

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-41-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Except as
3 provided in subsection (b), a person may not perform a screening or
4 confirmatory test for the antibody or antigen to the human
5 immunodeficiency virus (HIV) without the consent of the individual to
6 be tested or a representative as authorized under IC 16-36-1. A
7 physician ordering the test or the physician's authorized representative
8 shall document whether or not the individual has consented.
9 (b) The test for the antibody or antigen to HIV may be performed if
10 one (1) of the following conditions exists:
11 (1) If ordered by a physician who has obtained a health care
12 consent under IC 16-36-1 or an implied consent under emergency
13 circumstances and the test is medically necessary to diagnose or
14 treat the patient's condition.
15 (2) Under a court order based on clear and convincing evidence
16 of a serious and present health threat to others posed by an
17 individual. A hearing held under this subsection shall be held in



camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is ordered for a health care provider or an employee of a health care facility who is involved in direct skin or mucous membrane contact with blood or bodily fluids of an individual that, as determined by a physician, is of a nature that may transmit HIV.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

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